

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DARLENE CHERRY,  
Plaintiff,

v.

THE UNITED STATES OF AMERICA,  
Defendant.

Case No. C06-5452FDB

ORDER DENYING CONTINUANCE

Plaintiff requests a continuance of the October 9, 2007 trial date to the first available trial date in 2008 for the reason that Plaintiff's treating physician Carlos Moravek, M.D. opines that Plaintiff has not reached maximum medical improvement and is not fixed and stable at this time and he recommends:

... a series of spinal epidural injections to help relieve pain, reduce swelling and allow her more mobility. During this time, Ms. Cherry should participate in an additional course of physical therapy. I believe that this treatment can be concluded by January, 2008.

(Moravek Decl. p. 4.) The Government opposes the motion for several reasons, with which the Court agrees.


Plaintiff moved for this continuance following the pretrial conference at which it was determined the parties would participate in a Settlement Conference before Magistrate Judge J.

ORDER - 1

1 Kelley Arnold on October 3, 2007. The Court is not persuaded to continue this case. Plaintiff's  
2 alleged condition is nothing new, and her treating physician had previously recommended the  
3 injections he now recommends in October 2005, but Plaintiff declined the treatment. Now Plaintiff  
4 states that the injections involve substantial medical care and attendant risk, and that the Court  
5 should abide that course of treatment so that the results may be presented at trial. Having reviewed  
6 the parties' submissions on this motion, including the video tape, the Court is not persuaded to  
7 continue the trial date. This straightforward case should proceed to trial as scheduled.

8 ACCORDINGLY, IT IS ORDERED: Plaintiff's Motion To Continue Trial Date [Dkt. # 23]  
9 is DENIED.

10 DATED this 2<sup>nd</sup> day of October, 2007.

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13 FRANKLIN D. BURGESS  
14 UNITED STATES DISTRICT JUDGE  
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